

March 2, 2005

Steve Munro  
California Energy Commission  
1516 9<sup>th</sup> Street, MS 2000  
Sacramento, CA 95814

Subject: CEC Permit Amendment to Increase MEC Air Emissions

Dear Steve Munro,

The Santa Teresa Citizen Action Group has serious questions and concerns regarding the proposed CEC amendment to the Metcalf Energy Center conditions of certification which will result in increased MEC air emissions. These comments augment and amplify our comments made at the CEC workshop of February 23, 2005.

1. Because of the importance to our community of air emissions, especially those associated with start-ups, we hereby request an evidentiary hearing be held by the CEC. Several pieces of data that have been used are controversial and we request an opportunity to question those who prepared and submitted the data and associated air analyses on behalf of the applicant (Calpine) as well as the reviewers (BAAQMD and CEC).
2. We are also concerned about the lack of coordination between the BAAQMD and the CEC. For example, why is the BAAQMD process lagging the CEC's process? Why are different data being used in the respective air impact analyses? How is CEQA equivalency being met?
3. CEC Staff analysis
  - a. Why did a consultant, rather than the CEC's own air expert, review this MEC petition?
    - i. Did the CEC air expert review the results? Did that expert agree with this approach and these conclusions? Where is the written record of this?
    - ii. Community members wanting to speak with the CEC air consultant were told that he was unavailable until the CEC workshop. Meanwhile, it was apparent the applicant has had regular access to the consultant. We believe it is unfair for community members to be denied equal access with the applicant and we ask that this be redressed, in part, by scheduling an evidentiary hearing on this permit amendment.

- b. The margin of safety inherent in the proposed modification is inadequate to protect the community. For example, impacts of 97% of the health-based standard do not give an adequate margin of safety, particularly given the modeling uncertainties, which have not been acknowledged in the staff report or in the workshop.
- c. Impacts from air toxics, such as acrolein, were stated by the CEC air consultant to have not been considered in the analysis performed to date. Furthermore, no review of the testimony from the original air hearing was performed, including relevant testimony on start-up emissions and health effects concluding that health levels would be exceeded, even with the required oxidation catalyst (see testimony prepared by Steve Radis).
  - i. These impacts need to be considered and discussed in an evidentiary hearing
  - ii. Since this amendment was initiated by the applicant (Calpine) due to new information from their start-up emissions from similar plants, has the CEC reviewed this detailed data?
  - iii. Were air toxics included as part of the data reviewed by the CEC?
  - iv. The community and other interested parties request an opportunity to review and comment on start-up emissions data provided by Calpine for this permit amendment.
- d. At the workshop, the CEC air consultant mentioned that there are several other power plants where this type of emission limit change has been made.
  - i. How many of those plants are located in similar proximity to residences and businesses with similar meteorological conditions (eg: with routine air inversions)?
  - ii. Obviously the applicant has known for some time of the issues they are requesting be addressed in this permit amendment. The fact the applicant waited to bring this request forward so close to their desired start-up time should not be used to bully the CEC into acting hastily on this matter. Legitimate community concerns need to be fully addressed, including holding an evidentiary hearing.
- e. Why are the hourly emission limits being deleted?
  - i. Why is a 6-hour period being recommended for defining cold start-up emissions? This would allow dilution of the actual emissions over 6 times longer than the former 1 hour time period, thus effectively raising the emission limits by 600%.
- f. Given its proximity to MEC, the current monitoring data now being collected in the affected community is most appropriate to be used in the analysis of maximum impacts. The applicant (Calpine) has submitted this data to the City of San Jose and has represented the data as accurate and valid.
- g. The CEC used air data in their analysis which differs from that used in the original permit. This is inappropriate. We understand this differs from the approach the BAAQMD used. Again, this discrepancy should be available for examination in an evidentiary hearing.

- h. The piecemeal nature of CEC permit amendments for MEC has severely hampered effective public participation and is contrary to CEQA prohibitions against permitting occurring in a piecemeal fashion.
- 4. Since the start-up data on which the proposed amendment was based is not forthcoming or non existent, or may be difficult to generalize, it is mandatory that the COC's be amended to require source testing during startup periods. This testing should include cold and warm startups at various load levels, e.g, 25, 50, 75, and 100%, consistent with the expected use of a merchant plant. If the source testing shows a large deviation above the predicted performance, then additional mitigation must be determined.

We look forward to the CEC scheduling an evidentiary hearing on this matter.

Please feel free to contact me should you desire clarification on any of our comments.

Sincerely,

Phil Mitchell  
Santa Teresa Citizen Action Group